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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,808	06/23/2003	Ali Emam Bakhsh	TRW(AP)6483	9845
7590 10/24/2005 TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P. 1111 LEADER BUILDING 526 SUPERIOR AVE. Cleveland, OH 44114			EXAMINER DUNN, DAVID R	
			ART UNIT	PAPER NUMBER
			3616	

DATE MAILED: 10/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/601,808	Applicant(s) BAKHSB ET AL.	
	Examiner David Dunn	Art Unit 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-19 and 24-26 is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☒ Claim(s) 20-23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 August 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

cb

DETAILED ACTION

1. The benefit claim filed on August 15, 2005 was not entered because the required reference was not timely filed within the time period set forth in 37 CFR 1.78(a)(2) or (a)(5). If the application is an application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the reference to the prior application must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. If the application is a nonprovisional application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the reference to the prior application must be made during the pendency of the application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii). If applicant desires the benefit under 35 U.S.C. 120 based upon a previously filed application, applicant must file a petition for an unintentionally delayed benefit claim under 37 CFR 1.78(a)(3) or (a)(6). The petition must be accompanied by: (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted); (2) a surcharge under 37 CFR 1.17(t); and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Drawings

2. The drawings were received on August 15, 2005. These drawings are approved.

Claim Objections

3. Claims 20-23 are objected to because of the following informalities: claim 20 is objected to as it now repeats several limitations of claim 11; for example, "an inflated protection wall" is now claimed twice. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 3, 5, 8, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Kithil (US 5,602,734).

Kithil discloses an airbag comprising: an inflatable upper portion (62), a bifurcated lower portion including a first chamber (70) when inflatable being positioned against (against = directly opposite; facing) a surface of the instrument panel (see Figure 6) and a second chamber

66 inflatable against the windshield and an upper surface of the instrument panel (see Figures 5 and 6).

6. Claims 1-5 and 8-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Bakhsh et al. (US 2004/0100074).

The applied reference has a common inventor and common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Bakhsh et al. discloses an airbag (14) having a driver side portion (13) and a passenger side portion (132). As shown in Figure 3, the passenger side portion (132) is bifurcated when inflated, having a first chamber that inflates against a surface (162) of an instrument panel (64) facing an occupant and a second chamber (66) inflatable against a windshield (50) and an upper surface (160) of the instrument panel.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kithil in view of Henseler et al. (5,048,863).

Kithil is discussed above and lacks a pleated portion.

Henseler et al. teaches an airbag with a pleated portion 2'.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kithil with the teachings of Henseler et al. to provide the airbag with a pleated portion in order to reduce injuries to occupants by reducing the amount and velocity of initial expansion.

10. Claims 4 and 9 are rejected under 35 U.S.C. 103(a) as being obvious over Kithil in view of Bakhsh et al (2004/0100074).

The applied reference has a common inventor and common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a

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showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(l)(1) and § 706.02(l)(2).

Kithil is discussed above and lacks a pleated portion.

Bakhsh et al. teaches an airbag with a pleated portion 150.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kithil with the teachings of Bakhsh et al. to provide the airbag with a pleated portion in order reduce injuries to occupants by reducing the amount and velocity of initial expansion.

Kithil also lacks a driver side that is not bifurcated. Bakhsh et al. teaches a driver side portion (130) that is not bifurcated. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kithil with the teachings of Bakhsh et al. to provide a driver side portion that is not bifurcated in order to simplify manufacture of the driver side portion.

11. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kithil alone.

Kithil is discussed above and lacks an airbag that protects only a driver or passenger.

The Examiner takes Official Notice that it is old and well known to provide separate air bags for the driver and passenger. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kithil by reducing the size of the airbag such that it protects only a driver or passenger as this reduction in size enables easier manufacture, handling and folding of the airbag. Further, a modification involving a mere change in size is generally considered to be within the level of ordinary skill in the art.

Allowable Subject Matter

12. Claims 11-19 and 24-26 are allowed.
13. Claims 20-23 would be allowable if rewritten to overcome the above objection.

Response to Arguments

14. Applicant's arguments filed 8/15/05 have been fully considered but they are not persuasive. As noted above, the claim of domestic priority cannot be perfected at this point. Therefore, Bakhsh et al. is still prior art.

Regarding the rejection of Kithil, Applicant argues that Kithil teaches a tether to restrict deployment of the airbag which "prevents the air bag from inflating to a position against the surface of the instrument panel facing the occupant." However, as noted above, the first chamber is "inflated being positioned against a surface of the instrument panel." See Figure 6 of Kithil. As noted by Merriam Webster's Collegiate Dictionary 10th edition, "against" is defined as "directly opposite : FACING". Therefore, the airbag is inflated to be positioned opposite or facing the instrument panel such that it is "positioned against" the instrument panel.

Conclusion

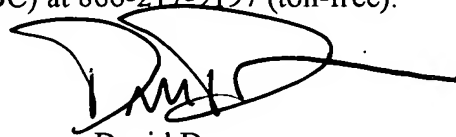
15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Dunn whose telephone number is 571-272-6670. The examiner can normally be reached on Mon-Fri, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'David Dunn', with a long horizontal stroke extending to the right.

David Dunn
Primary Examiner
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